

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

FITZGERALD MCCLATCHIE,

Petitioner,

-v-

9:07-CV-918 (LEK/VEB)

SHERIFF, Clinton County Jail, and  
BUREAU OF IMMIGRATION AND  
CUSTOMS ENFORCEMENT,

Respondents.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on February 3, 2009, by the Honorable Victor E. Bianchini, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 23).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Bianchini's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 23) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

**ORDERED**, that Respondent Bureau of Immigration and Customs Enforcement's Letter Motion (Dkt. No. 22) is **GRANTED** and Petitioner McClatchie's petition for a writ of habeas corpus is **DISMISSED** as moot; and it is further

**ORDERED**, that no Certificate of Appealability shall issue with regard to any of Petitioner's claims; and it is further

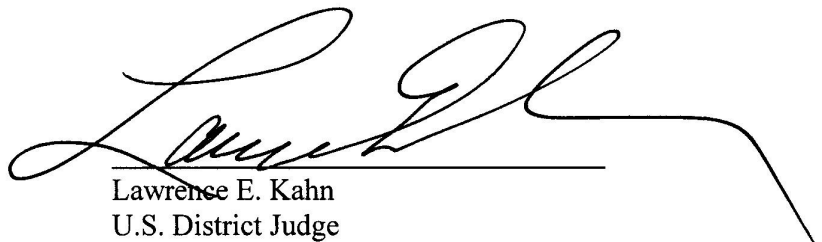
**ORDERED**, that Petitioner's Motion to stay (Dkt. No. 16) is **DENIED as moot**; and it is further

**ORDERED**, that Petitioner's Motion to appoint counsel (Dkt. No. 18) is **DENIED as moot**; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: February 27, 2009  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge